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May 15, 2007

VIA E-FILING

The Honorable Joseph J. Farnan, Jr.
United States District Court
for the District of Delaware
844 King Street
Wilmington, Delaware 19801

RE: *Wyeth v. Impax Laboratories, Inc.*, C. A. No. 06-222 (JJF)

Your Honor:

We write in response to Wyeth's email to the Court this morning. Wyeth claims that the Court set no time limit in its April 13th Order granting Impax's Motion to Compel (D.I. 146). To the contrary, the Court granted Impax's Motion in its entirety. In its moving papers, Impax requested that the Court "order Wyeth to produce 30(b)(6) witnesses on the eight general topics particularly described in Impax's Second Amended Notice within 30 days." (D.I. 113, p. 3). The Court recognized that "the proposed deposition is the most efficient way to proceed." (D.I. 146). On April 16, the first business day following the Court's ruling, Impax sent a letter to Wyeth's counsel requesting that Wyeth designate deponents and provide proposed deposition dates convenient to the deponents while advising Wyeth that "the 30(b)(6) deposition must take place within 30 days."

Each time Wyeth has offered 30(b)(6) deposition dates, Impax has accepted one of the proposed dates for each topic offered.

Impax's only goal is to be able to use the 30(b)(6) depositions in support of its claim construction briefing. The claim construction opposition briefs are due May 25, 2007. Given that the depositions were unlikely to occur before then, Impax offered to Wyeth the option of allowing supplemental claim construction briefs to add any facts learned at those later depositions. Wyeth refused to agree to supplemental briefs, and to this day still has not offered deponents or dates for all the 30(b)(6) topics.

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Accordingly, Impax asks the Court to enforce its original order requiring Wyeth to produce 30(b)(6) witnesses within 30 days of April 13. In the alternative, Impax asks that the Court order Wyeth to produce witnesses by June 8th on the topics identified in Impax's May 15 letter and grant Impax leave to submit a supplemental claim construction brief on June 10.

Respectfully,

A handwritten signature in black ink, appearing to read 'RKH', with a long horizontal stroke extending to the right.

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cc: Jack B. Blumenfeld, Esq. (via email)
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